

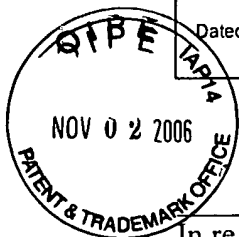
I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EV 596703523 US, on the date shown below in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: November 2, 2006

Signature:


(Lori Sims)

Docket No.: 282172002900
(PATENT)



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Thomas W. DUBENSKY, Jr. et al.

Confirmation No.: 8458

Application No.: 10/773,792

Art Unit: 1645

Filed: February 6, 2004

Examiner: J. Graser

For: LISTERIA ATTENUATED FOR
ENTRY INTO NON-PHAGOCYTTIC
CELLS, VACCINES COMPRISING
THE LISTERIA, AND METHODS OF
USE THEREOF

RESPONSE TO RESTRICTION/ELECTION OF SPECIES REQUIREMENT

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is in response to the Restriction/Election of Species Requirement set forth in the non-final Office Action mailed October 3, 2006 (Paper No. 20060928), for which a response is due November 3, 2006. Accordingly this response is timely filed.

Applicants hereby elect Group II (claims 22-41), without traverse, for continued examination.

In addition, Applicants elect the following species, without traverse: a mutation in *actA* and *inlB*. All claims are readable on the elected species.

Applicant's election is made without prejudice. As noted by the Examiner, upon the allowance of a generic claim, Applicant will be entitled to consideration of claims to additional species which depend from or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141.

Applicants expressly reserve Applicants' right under 35 U.S.C. § 121 to file a divisional application directed to the non-elected subject matter during the pendency of this application, or an application claiming priority from this application.

Applicants request examination of the elected subject matter on the merits.

In the unlikely event that the transmittal form is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicants petition for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing 282172002900. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: November 2, 2006

Respectfully submitted,

By


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